Habersham Plantation Corporation v. G&J Styles Inc et al Doc. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HABERSHAM PLANTATION CORPORATION, a Georgia corporation,

Plaintiff,

v.

G & J STYLES, INC., a North Carolina corporation, and HALO STYLES, LLC, a North Carolina limited liability company,

Defendants.

Civil Action No. _________

JURY DEMANDED

FILED: OCTOBER 15, 2008
08CV5892
JUDGE CONLON
MAGISTRATE JUDGE VALDEZ
AO

COMPLAINT

Plaintiff HABERSHAM PLANTATION CORPORATION, by its attorneys, complain against Defendants G & J STYLES, INC. and HALO STYLES, LLC as follows:

NATURE AND STATUTORY BASIS OF ACTION

1. This is an action for copyright infringement under 17 U.S.C. § 101, et seq.

THE PARTIES

2. Plaintiff HABERSHAM PLANTATION CORPORATION is a Georgia corporation (hereinafter "HABERSHAM"), and is the exclusive owner of all right, title and interest in and to certain exclusive intellectual property (hereinafter the "Intellectual Property") including the copyrights described herinafter. HABERSHAM has its principal place of business at 342 Collier Road, Toccoa, Georgia 30577. HABERSHAM has been in the business of designing and crafting fine furniture, furnishings and home décor goods for well over thirty (30)

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years, and has established itself as one of the leading manufacturers and distributors of original fine furniture products throughout the United States.

3. On information and belief, Defendant G & J STYLES INC. is a North Carolina corporation, and Defendant HALO STYLES LLC is a North Carolina limited liability company. On information and belief, both Defendant G & J STYLES INC. and Defendant HALO STYLES LLC have their principal place of business at 3800 Comanche Road, Archdale, North Carolina 27263. Defendant G & J STYLES INC. and Defendant HALO STYLES shall be collectively referred to herein as "the G&J Defendants." On information and belief, the G&J Defendants showcase, display, and/or offer their accused products for sale in several showrooms in the United States and over the Internet, including a showroom located within this judicial district, in the Merchandise Mart in Chicago, Illinois, in direct competition with HABERSHAM.

JURISDICTION AND VENUE

4. Jurisdiction over Count I of this Complaint is expressly conferred on this Court pursuant to 17 U.S.C. § 106 and 28 U.S.C. §§ 1331 and 1338(a) and (b).

5. On information and belief, the G&J Defendants are doing business in the State of Illinois, through their dealings with a showroom located in the Merchandise Mart in Chicago, Illinois. On information and belief, personal jurisdiction over the G&J Defendants is vested in this Court pursuant to one or more subsections of 735 ILCS 5/2-209(a)-(c), in that the G&J Defendants have, with respect to the present case, transacted business in the State of Illinois, engaged in tortious acts within Illinois, and/or have contacts with the State of Illinois, all commensurate with the United States and Illinois Constitutions, so as to submit themselves to the jurisdiction and process of this Court.

6. Venue is proper in this Judicial District under 28 U.S.C. § 1391.

HABERSHAM'S BUSINESS AND COPYRIGHTS

7. HABERSHAM is a family business that has been manufacturing, distributing and selling high-quality, distinctive furniture and home décor goods for resale to the general public for approximately thirty-five (35) years.

8. HABERSHAM'S products have long been recognized for their fine craftsmanship, close attention to detail, and distinctive designs, establishing the HABERSHAM brand as one of the world's premier high-end, exclusive furniture brands.

9. HABERSHAM designs, develops and utilizes many original designs to ornament its furniture products, including two- and three-dimensional works of art, such as, for example, paintings, sculptures, carvings, reliefs, cutaways, and moldings.

10. HABERSHAM is the owner of the following federally registered copyright registration, among its other Intellectual Property rights: United States Copyright Registration No. VA0001625419 for Ornamented Cabinet (Approach Road Cabinet). A copy of the registration certificate for the Approach Road Cabinet is attached as Exhibit 1, and image sheets of the Approach Road Cabinet corresponding to the deposit specimen submitted with the underlying application are attached as Exhibit 2.

11. HABERSHAM is the owner of numerous other registered copyrights and pending copyright applications for original ornamental designs for furniture. In particular, HABERSHAM has pending copyright applications for its original, ornamental designs for its Monet "Louis XV" Bibliotheque Cabinet and Studio Bookcase, copies of which are attached as Exhibits 3-4, respectively.

12. HABERSHAM'S furniture products incorporating its copyrighted designs are advertised both nationally and locally in its distributors' showrooms, magazine advertisements,

point of purchase advertisements, printed catalogs, circulars, inserts, and other printed matter at international and national trade shows featuring furniture and home design, as well as on the World Wide Web under the domain names "habershamplantation.com" and "habershamdesigns.com". HABERSHAM is a participant in the High Point Market in High Point, North Carolina, along with, on information and belief, the G&J Defendants. Over the years, HABERSHAM has expended tens of millions of dollars to advertise and promote its furniture products and retail furniture store services.

THE G&J DEFENDANTS' MISAPPROPRIATION OF HABERSHAM'S COPYRIGHTED DESIGNS

13. On information and belief, without the prior knowledge or authorization of HABERSHAM, the G&J Defendants are marketing, advertising, showcasing, displaying, offering for sale and/or selling, in commerce, their Half Moon Display Cabinets which copy, duplicate and imitate virtually every single aspect of the copyrighted and federally registered ornamental design for HABERSHAM'S Approach Road Cabinet. (Exs. 1-2.) Listings, photographs and advertising of the G&J Defendants' Half Moon Display Cabinets are attached as Exhibit 5.

14. A comparison of HABERSHAM'S Approach Road Cabinet and the G&J Defendants' Half Moon Display Cabinets, as presented in Exhibit 6, shows that virtually every detail of ornamentation from HABERSHAM'S Approach Road Cabinet has been slavishly copied on the G&J Defendants' Half Moon Display Cabinets. Moreover, the G&J Defendants' Half Moon Display Cabinets have been sized virtually identically to HABERSHAM'S Approach Road Cabinet. (Ex. 6.)

15. On information and belief, the G&J Defendants have sold, offered for sale, displayed, and/or advertised their Half Moon Display Cabinets in connection with their dealings with a showroom located in the Merchandise Mart in Chicago, Illinois.

16. On information and belief, without the prior knowledge or authorization of HABERSHAM, the G&J Defendants are marketing, advertising, showcasing, displaying, offering for sale and/or selling, in commerce, their Bifold 3 Draw Bookcase In Ivory Finish which copies, duplicates and imitates virtually every single aspect of the copyrighted ornamental design for HABERSHAM'S Monet "Louis XV" Bibliotheque Cabinet. (Ex. 3.) A listing and photograph of the G&J Defendants' Bifold 3 Draw Bookcase In Ivory Finish are attached as Exhibit 7.

17. A comparison of HABERSHAM'S Monet "Louis XV" Bibliotheque Cabinet and the G&J Defendants' Bifold 3 Draw Bookcase In Ivory Finish, such as presented in Exhibit 8, shows that virtually every detail of ornamentation from HABERSHAM'S Monet "Louis XV" Bibliotheque Cabinet has been copied on the G&J Defendants' Bifold 3 Draw Bookcase In Ivory Finish. Moreover, the G&J Defendants' Bifold 3 Draw Bookcase In Ivory Finish has been sized virtually identically to HABERSHAM'S Monet "Louis XV" Bibliotheque Cabinet. (Ex. 8.)

18. On information and belief, without the prior knowledge or authorization of HABERSHAM, the G&J Defendants are marketing, advertising, showcasing, displaying, offering for sale and/or selling, in commerce, their Very Large Open Bookshelf In Ivory which copies, duplicates and imitates virtually every single aspect of the copyrighted ornamental design for HABERSHAM'S Studio Bookcase. (Ex. 4.) A listing and photographs of the G&J Defendants' Very Large Open Bookshelf In Ivory are attached as Exhibit 9.

19. A comparison of HABERSHAM'S Studio Bookcase and the G&J Defendants' Very Large Open Bookshelf In Ivory, such as presented in Exhibit 10, shows that virtually every detail of ornamentation from HABERSHAM'S Studio Bookcase has been copied on the G&J Defendants' Very Large Open Bookshelf In Ivory. Moreover, the G&J Defendants' Very Large Open Bookshelf In Ivory has been sized virtually identically to HABERSHAM'S Studio Bookcase. (Ex. 10.)

COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. § 101

Plaintiff HABERSHAM hereby adopts and reavers each of the allegations contained in Paragraphs 1 through 19 above, inclusive.

20. HABERSHAM is the owner of all right, title and interest in and to its copyrighted ornamental designs for its furniture products. HABERSHAM has obtained federal registration for its rights in the copyrighted ornamental design for its Approach Road Cabinet. (Exs. 1-2.) HABERSHAM has pending applications for federal registration of the copyrighted ornamental designs for its Monet "Louis XV" Bibliotheque Cabinet and Studio Bookcase. (Exs. 3-4.)

21. The Defendants had access to HABERSHAM'S original designs as soon as the designs were published by HABERSHAM through inclusion and/or display of the underlying products in advertisements, showrooms, trade shows, and/or on the Internet.

22. The Defendants have directly copied HABERSHAM'S copyrighted ornamental designs for furniture, including the copyrighted and federally registered ornamental design for the Approach Road Cabinet and the copyrighted ornamental designs for the Monet "Louis XV" Bibliotheque Cabinet and Studio Bookcase. (Exs. 5-10.)

23. In copying virtually every detail of HABERSHAM'S copyrighted Approach Road Cabinet, Monet "Louis XV" Bibliotheque Cabinet, and Studio Bookcase furniture designs, the Defendants have violated the copyright laws of the United States, under 17 U.S.C. § 101, et seq.

24. The Defendants have willfully infringed upon HABERSHAM'S rights in and to its copyrighted designs.

25. By reason and as a direct result of these acts of copyright infringement by the Defendants, HABERSHAM has suffered great and irreparable damage, the full extent of which is currently unknown, while the Defendants position themselves for unjust enrichment at HABERSHAM'S substantial expense. HABERSHAM will continue to suffer great and irreparable damage unless and until the Defendants are enjoined by this Court.

PRAYER FOR RELIEF

Plaintiff HABERSHAM prays for the following relief:

26. That this Court find that the Defendants have unlawfully, and without authorization, used and infringed the copyrighted ornamental designs of HABERSHAM'S Approach Road Cabinet, Monet "Louis XV" Bibliotheque Cabinet, and Studio Bookcase, all of which are owned by HABERSHAM;

27. That the Defendants and their officers, agents, servants, employees, attorneys, and all other persons in active concert and/or participation with them who receive notice, be preliminarily and permanently enjoined and restrained from:

(a) Using, selling, distributing, importing, trading and/or otherwise dealing in any product incorporating any of HABERSHAM'S original designs, and/or any parts thereof; and

(b) Otherwise infringing HABERSHAM'S copyrights;

28. That the Defendants be directed to file in Court, and to serve on HABERSHAM, within five (5) days after entry of the above injunction, a report in writing, under oath, setting forth in detail the manner and form in which it has complied with the injunctive relief ordered by this Court;

29. That, pursuant to 17 U.S.C. § 503, the Defendants be directed to deliver up to this Court for impounding during the pendency of this action, on such terms as the Court may deem reasonable, and/or for destruction or other reasonable disposition, as a part of a final judgment in favor of HABERSHAM, all copies claimed to have been made or used in violation of HABERSHAM'S exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies may be reproduced;

30. That an accounting be held and judgment rendered for damages sustained by HABERSHAM on account of the Defendants' copyright infringement;

31. That this Court assess prejudgment interest against Defendants for the amount awarded to HABERSHAM; and

32. That this Court award reasonable attorney fees, taxable costs and such other and further relief to HABERSHAM as deemed just.

JURY DEMAND

HABERSHAM requests a trial by jury as to all issues triable to a jury.

Respectfully submitted,

HABERSHAM PLANTATION CORPORATION

Dated: October 15, 2008

By: /s/Richard D. Harris

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